

# Being better informed

## FS regulatory bulletin

### FS regulatory insights

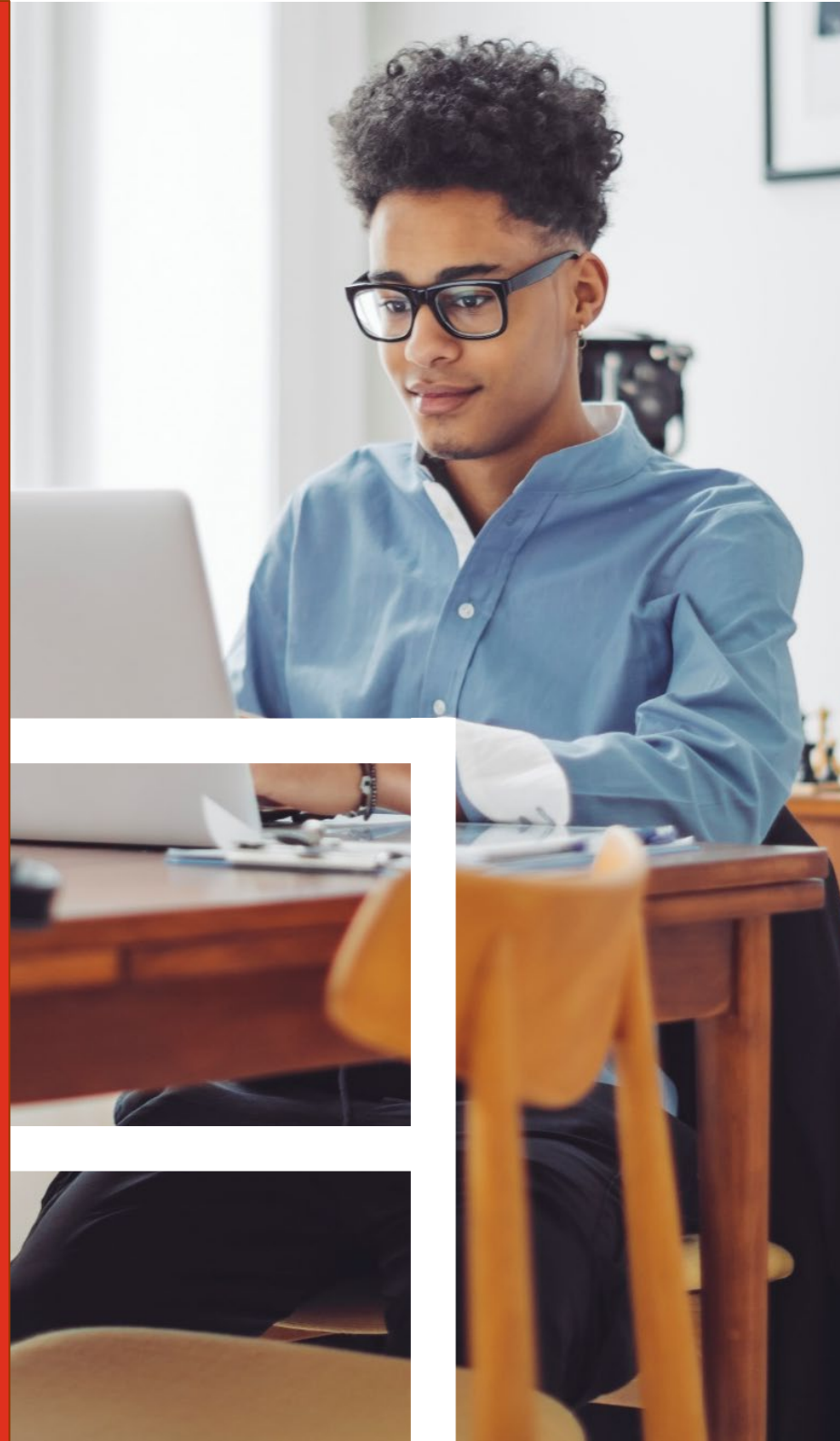
January 2024

#### In this month's edition:

- FCA consults on transforming UK Listing Rules
- PRA finalises Basel 3.1 rules
- Regulators propose framework for critical third parties
- FCA proposes rules to maintain reasonable access to cash



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# Executive summary



Welcome to this edition of 'Being better informed', our monthly FS regulatory bulletin, which aims to keep you up to speed with significant developments and their implications across all the financial services sectors.



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The regulators packed a lot into the end of 2023, with important updates on Basel 3.1, wholesale markets reform, critical third parties (CTPs) and access to cash.

Seeking to deliver substantial reform in wholesale markets, the FCA confirmed final rules for a UK consolidated tape for bonds, making a number of changes from its earlier consultation (see our [At a glance](#) for details). The regulator also published proposals for revising the UK's pre and post-trade transparency requirements for bond and derivatives markets. Its consultation covers the scope of the transparency regime, the information that must be made public on orders (pre-trade) and trades (post-trade) by trading venues and investment firms, exemptions available from the transparency requirements, and data reporting requirements. The FCA intends to finalise the rules in 2024 and implement them in 2025, to align with the date that a consolidated tape for bonds is expected to go live. Our [At a glance](#) provides more information.

In addition, the FCA issued a consultation paper on its approach to transforming the UK Listing Rules, which it hopes will create a simplified regime that addresses sources of friction and inefficiency, and is more attractive to a wider range of companies. The regulator plans to publish final rules at the start of H2 2024. See our [At a glance](#) for further details.

Elsewhere, the PRA confirmed its approach to the implementation of the Basel Committee on Banking Supervision reforms, in a policy statement covering the final rules for market risk, credit valuation adjustment risk and operational risk. The implementation deadline for Basel 3.1 is 1 July 2025, with a transition period ending in January 2030. The UK's approach largely aligns with the Basel standards, and while the PRA has responded to industry feedback on a few specific

items, the final rules are broadly as consulted on. The PRA's latest estimate of the impact of the Basel 3.1 standards for major UK firms is a 3.2% increase in Tier 1 capital requirements by 1 January 2030. Please read our [Hot topic](#) publication for further analysis.

The PRA progressed the Strong and Simple regime, confirming scope criteria, liquidity and disclosure requirements. The PRA has decided to rename Simpler-regime firms as Small Domestic Deposit Takers (SDDTs), and Simpler-regime consolidation entities as SDDT consolidation entities. The rules are largely aligned with previous consultations. Please read our [At a glance](#) for further details.

In an important development for retail banks, the FCA proposed rules for banks to maintain reasonable access to cash for personal and business customers in the UK. The proposals will require firms to carry out more frequent and wide-ranging assessments of access to cash provision, and fill any gaps. The FCA expects to finalise the rules by Q3 2024. Please see our [At a glance](#) publication for more information.

The BoE, PRA and FCA consulted on proposals for the regulation of CTPs. The proposed requirements aim to minimise risk from service providers whose failure or disruption could impact the stability or confidence in the UK financial system. The proposals include criteria for identifying and designating CTPs, and operational risk and resilience requirements for CTPs in respect of their material services. The proposals would not impose additional requirements on firms and financial market infrastructures, but are designed to complement their existing obligations regarding operational resilience and third-party risk management. Please see our [At a glance](#) publication for more information.

In the insurance sector, the PRA issued a Dear CRO letter, sharing findings of its review into expected underwriting (UW) profit allowed for in internal models (IMs) with all General Insurance GI firms. The PRA outlines concerns that GI firms are assuming increasing UW profits within their IMs, which can result in a reduced Solvency Capital Requirement, without any proper justification. It also identifies broader weaknesses in firms' business planning processes. The PRA's findings will shape its work on the IM Ongoing Review.

Finally, HM Treasury (HMT) and the FCA issued a joint discussion paper on the Advice Guidance Boundary Review, which looks at the regulatory boundary between financial advice and guidance for retail investments and pensions. They are seeking views on three proposals: further clarifying the boundary, targeted support (a framework enabling firms to provide support tailored to groups of people in similar circumstances), and simplified advice.

Please read on to find out more about these and other developments. You can also visit our PwC webpage for further regulatory insights. These include our latest Risk & Regulation Rundown [podcast episode](#) on digital asset regulation, and our [annual report](#) exploring the global landscape for crypto regulation.

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# Cross sector announcements

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## Conduct

### FCA proposes minor Handbook changes

The FCA proposed minor Handbook changes, in [CP23/25 Quarterly Consultation No 42](#) on 1 December 2023. The proposals include changes related to: rules for authorised funds, the Pensions Supplementary Provisions chapter of the Conduct of Business sourcebook, and clarifications to the Prudential sourcebook for MiFID Investment Firms. The consultation closed on 8 January 2024.

## Critical third parties

### Regulators consult on critical third parties regime

The BoE, PRA and FCA issued a [consultation paper](#) (CP 26/23) on the upcoming critical third parties (CTPs) regime on 7 December 2023.

The CP outlines proposed requirements and expectations for CTPs. The primary objective of these proposed rules is to mitigate risks to the UK financial system's stability and trust, which could result from failures or disruptions in services provided by CTPs to firms and financial market infrastructures (FMIs). The proposals in this CP would not impose additional requirements on firms and FMIs but seek to complement their existing obligations on operational resilience and third-party risk management.

The CP includes details about:

- criteria for identifying and designating CTPs
- a set of six Fundamental Rules for CTPs to follow in all services provided to firms and FMIs
- eight operational risk and resilience requirements that CTPs would be required to comply with in respect of their material

services, covering governance, risk and incident management

- information-gathering, self-assessment, testing, Skilled Person Review, notifications, and record-keeping requirements.

The consultation closes on 15 March 2024. The PRA and Bank will publish a consultation paper on CTPs with a draft policy on disciplinary powers in due course, preceding a final policy statement with CTP rules. Additionally, the regulators intend to release a document outlining their CTP oversight approach.

For more information, please see our [At a glance](#) briefing.

## Financial advice

### HMT and FCA kick off Advice Guidance Boundary Review

HM Treasury (HMT) and the FCA issued a joint [discussion paper \(DP23/5\)](#) on the Advice Guidance Boundary Review on 8 December 2023. The Review was announced by the Government as part of the Edinburgh Reforms, to examine the regulatory boundary between financial advice and guidance for retail investments and pensions.

The FCA and Government are seeking views on three proposals. The first is to further clarify the boundary, building on the FCA's August 2023 [boundary clarification document](#), exploring whether further guidance or simplifying existing guidance would help firms to provide consumers with greater levels of support by giving them more confidence to operate closer to the boundary.

The second proposal is for targeted support, a new regulatory framework enabling firms to provide support tailored to groups of people in similar circumstances. The support could be offered without explicit charges, based on limited information. It would enable firms to suggest

products or courses of action, based on a target market the consumer has been identified as belonging to (i.e. 'people like you'), rather than fully individualised support.

The third proposal is for a simplified form of advice which enables firms to support consumers with simpler needs and smaller sums to invest, in a commercially viable way. This would build on feedback to initial proposals for a new simplified advice regime published in November 2022.

The DP closes on 28 February 2024. The authorities have not yet given dates for any subsequent steps.

## Supervision

### HMT confirms accountability metrics for regulators

The Government marked the anniversary of the Edinburgh Reforms package on 8 December 2023 with the [confirmation](#) of the new scrutiny metrics that the FCA and PRA will report against. The metrics form part of the new regulatory framework implemented by the Financial Services and Markets Act 2023, with the new reporting requirements aimed at holding the regulators to account on how they are embedding their new secondary objective for growth and international competitiveness.

The FCA and PRA will be required to report on a range of metrics across five categories. Examples include:

- operational efficiency and MI: number of new firm authorisations and refusals, number of Senior Manager refusals, and the time taken to complete approvals
- international competitiveness: number of new domestic vs overseas entrants to the UK market, number of listed equity on UK exchanges
- regulatory burden: total costs to business across all Cost Benefit Analyses, the number of data requests and the average time given to firms to complete

- policy and implementation: introducing a regulatory dashboard outlining the progress of consultation or initiatives
- digital and innovation: number of new initiatives which are designed to foster innovation and the number of ongoing sandbox applications.
- Regulators will include this reporting as part of their regular quarterly reporting, or by the first report on the embeddedness of the new secondary objective in summer 2024.

### PRA consults on updated policy approach

The PRA issued a [consultation](#) on 8 December 2023, outlining its updated policy approach to reflect its new responsibilities and accountabilities under FSMA 2023. Proposed changes include providing more clarity on how it approaches implementing international standards and drawing international comparisons, adopting a more flexible and proportionate approach to stakeholder engagement, and prioritising reforms to improve the accessibility of the Rulebook. The consultation closes on 8 April 2024.

### UK and Switzerland sign landmark mutual recognition agreement

HMT announced the signing of the [mutual recognition agreement](#) (MRA) on financial services between the UK and Switzerland on 20 December 2023. Once ratified, the MRA will provide enhanced and secured market access for UK and Swiss firms to each other's markets in specific financial services sectors. It also establishes ongoing regulatory and supervisory cooperation between the two jurisdictions. Key commitments include:

- UK insurers will be exempt from Swiss requirements mandating a local presence to service Swiss clients from 2024. UK insurance firms providing wholesale lines of business into Switzerland will also be able to largely rely on UK rules to do so.
- UK financial advisers to High Net Worth (HNW) individuals will no longer need to register with Swiss authorities to service

Swiss clients. Swiss firms providing certain investment services into the UK will also be able to rely on Swiss rules.

- Commitments to lock in the UK's ability to market funds to Swiss HNW clients, including a bilateral commitment to maintain openness on portfolio management delegation.
- Commitments to lock in UK banks' continued access to serve corporate clients in Switzerland, and vice versa.
- UK and Switzerland agree to defer to each other's rules on CCP authorisation and prudential regulation, and on risk mitigation rules for OTC derivatives. The MRA also includes commitments to lock in existing market access for Trading Venues.

The UK and Switzerland plan to build on existing commitments going forward and to take forward discussions to introduce mutual recognition of mandatory climate-related corporate disclosures.

The Agreement is subject to UK and Swiss parliamentary ratification. This process will take place over the course of 2024.

See our [At a glance](#) publication for more information.

## Sustainability

### ISSB publishes resources to help apply Standards

On 1 December 2023, the International Sustainability Standards Board (ISSB) launched its [knowledge hub](#) including new and updated resources to help businesses apply IFRS S1 and IFRS S2. The hub hosts content developed by the IFRS Foundation and third-party organisations.

The materials published include:

- a [table](#) mapping the Integrated Reporting Framework with IFRS S1 and IFRS S2
- a [guide](#) to transitioning from the TCFD Recommendations to the ISSB Standards

- a set of [Frequently Asked Questions](#).

### ESMA consults on sustainability disclosure supervision

On 15 December 2023, the European Securities and Markets Authority (ESMA) [published a consultation](#) on a draft set of guidelines on the enforcement of sustainability information disclosure. The guidelines seek to ensure competent authorities carry out supervision of Corporate Sustainability Reporting Directive and EU Taxonomy disclosures consistently, and ensure consistency in supervision.

The consultation closes on 15 March 2024, and ESMA plans to publish final guidelines in Q3 2024.

### FCA reviews sponsor procedures for TCFD-aligned disclosures

On 19 December 2023, the FCA [outlined](#) its observations on sponsors' changes to their procedures in light of their responsibility, where a sponsor service is being provided to a new applicant, to assess whether issuers have established procedures to enable them to comply with the Task Force on Climate-Related Financial Disclosures (TCFD) disclosure requirements for premium listed commercial companies.

The FCA reviewed a sample group of sponsors and found that most had changed their internal policies and procedures to account for the new rules, including by adapting their approach to the provision of sponsor services to include additional due diligence measures. The FCA also found that most sponsors, particularly larger organisations, relied on internal expertise to assess TCFD-aligned disclosure procedures.

The FCA called out good practice, including assessing policies and procedures to consider whether they need to be updated, and considering how the nature and extent of a new applicant's climate-related risks might be relevant to gaining assurance in relation to the issuer's ability to meet its disclosure requirements on an ongoing basis. The review also identified circumstances where fewer records might reasonably have been kept.

The FCA set out an expectation that sponsors have sufficient skills, knowledge and expertise to understand the climate-related implications of a new applicant's operations and consider the risks for investors, noting that sponsors are not expected to be experts in TCFD-aligned disclosures.

Finally, the FCA noted that sponsors may find it useful to monitor and engage with its ongoing policy development on sustainability reporting for listed companies.

### TNFD releases resources to help businesses implement its recommendations

In December 2023, the Taskforce on nature-related Financial Disclosures (TNFD) published a range of guidance and capacity-building materials to assist organisations in implementing the TNFD Framework.

Included in the TNFD's publications is:

- Draft [sector guidance](#) covering eight sectors with high impacts and dependencies on nature, including oil & gas, food & agriculture, and financial institutions. The guidance is open for market feedback until 29 March 2024.
- [Discussion papers](#) on conducting scenario analysis, draft sector disclosure metrics and biodiversity footprinting approaches for financial institutions. The papers are open for feedback until 29 March 2024.
- The first three of five capacity-building modules, alongside a Board-level overview, as part of [TNFD in a Box](#). The modules are: the Nature-Business Nexus, Overview of the TNFD and the TNFD Recommendations.
- An interactive [locate assessment tool](#), developed in collaboration with the Integrated Biodiversity Assessment Tool Alliance. The tool is an open access version of the IBAT biodiversity map on the TNFD website.

Alongside the TNFD's own publications, a number of partner organisations made notable publications. On 9 December 2023, Bloomberg

NEF published a [series of case studies](#) in consultation with the TNFD that showcase how nature risks have materialised into significant financial consequences for leading companies in a range of sectors over the last two decades. On 13 December, the Network for Greening the Financial System published a [report](#) providing recommendations on developing scenarios to assess nature-related financial risks, building on existing knowledge on climate-related scenarios.

### Voluntary ESG data and ratings code published

The industry working group convened by the FCA [published](#) a final voluntary Code of Conduct for providers of ESG data and ratings on 14 December 2023. The code focuses on transparency, good governance, management of conflicts of interest, and strengthening of systems and controls. HM Treasury consulted in March 2023 on bringing ESG ratings providers within the regulatory perimeter. A response to that consultation is due early this year.

### Wholesale markets

#### FCA proposes revised framework for commodity derivatives

The FCA published a [consultation](#) (CP23/27) on revising the UK's commodity derivatives regulatory framework on 4 December 2023. The UK's commodity derivatives markets play an important role in the pricing of commodities globally, as well as providing a link between financial markets and the real economy. As such, the impact of the FCA's proposals will be felt by a large number of market participants and end users.

CP 23/27 covers the regimes for position limits, position management controls, exemptions from position limits, and amendments to the ancillary activities exemption. Many of the proposals transfer responsibility for fulfilling a number of functions from the FCA to trading venues (TVs), which in turn should result in enhanced supervisory oversight and reporting requirements for in-scope TVs. Large banks and commodity

houses that are active in commodity derivative markets will also be impacted by the proposals.

PwC's [Hot topic](#) publication analyses the proposals in further detail.

### FCA confirms rules for a bond consolidated tape

The FCA published its [policy statement](#) on the framework for a UK consolidated tape (CT) for bonds on 20 December 2023.

Alongside the final rules, the FCA published a narrow consultation on specific elements of the framework. Consultation Paper 23/33 covers whether and how to require a consolidated tape provider (CTP) to make payments to data providers to cover their costs of connecting to the CTP, and changes to forms for Data Reporting Service Providers.

In July 2023, the FCA published its draft proposals for establishing a CT for bonds in the UK. A CT brings together market data on trades executed on trading venues and over-the-counter into one comprehensive data feed, provided by the CTP. While many of the final rules for the CT will be enacted as proposed in the FCA's earlier consultation paper ([CP 23/15](#)), several significant changes have been made, including:

- a requirement that value-added data services cannot be provided by the same legal entity at the CTP
- a requirement that the CTP must provide a historical data service, which must be provided separately to the live CT
- the new proposal, subject to consultation, that the CTP must make payment(s) to data providers to cover their costs in connecting to the CTP.

The FCA also provides a summary of the feedback received to its previous discussion paper on developing a CT for equities, providing insight into industry views on this topic. The FCA will provide a further update later in 2024.

See our [At a glance](#) publication for more information.

### FCA consults on market transparency changes

The FCA published [Consultation Paper \(CP\) 23/32](#) on 20 December 2023, proposing a set of reforms to the transparency regime for bond and derivatives markets.

The proposals aim to substantively recalibrate the transparency regime, reducing the requirements for illiquid instruments and non-price forming trades given their perceived limited benefit to price formation or meaningful transparency.

The CP proposes changes to the scope of the regime and the information that must be made public on orders (pre-trade) and trades (post-trade). It also covers the exemptions available from the regime, various data reporting changes, and a new Systematic Internaliser (SI) definition.

These proposals form part of the FCA's wider agenda to strengthen UK wholesale markets. The FCA intends to finalise its rules in 2024 and implement in 2025, to align with the date that a consolidated tape for bonds is expected to go live.

The consultation is open for comment until 6 March 2024.

See our [At a glance](#) publication for more information.

### FCA progresses Listing regime transformation

The FCA published a [consultation](#) paper on 20 December 2023, progressing reform of the UK Listing regime. The proposals advance plans to establish a single listing category for equity shares in commercial companies, accompanied by reduced eligibility requirements and ongoing requirements and rules.

In particular, the proposals confirm the FCA's approach to:

- Remove financial information eligibility requirements and obligations on independence of business and control of business.

- Remove requirements for a shareholder vote, circular, and sponsor involvement for significant transactions (STs) and for related party transactions (RPTs) over 5%. The FCA proposes to move to a disclosure-based regime that introduces enhanced disclosure requirements on STs, and additional governance requirements and a sponsor's 'fair and reasonable' confirmation for RPTs.
- Permit dual/multiple class share structures, including removing a ten-year sunset clause as previously proposed.

The proposals would map current standard primary listings of commercial companies into a new 'transition' category to allow existing issuers to transfer into another category when ready. The FCA also proposes to move sovereign-controlled companies into the commercial companies category with certain requirements disapplied, as well as create a distinct category for close ended investment funds, international secondary listings and SPACs.

The proposals would also retain a narrower sponsor regime with relaxed requirements on sponsor competence.

The consultation on the sponsor competence proposals closes on 16 February 2024. The main consultation period closes on 22 March 2024. The FCA proposes to issue final rules in summer 2024, with a two-week implementation timeline.

See our [At a glance](#) publication for more information.

### Regulators confirm status quo for margin requirements

The PRA and FCA published rules amending Binding Technical Standard 2016/2251 on margin requirements for non-centrally cleared derivatives on 18 December 2023. The final rules are set out in [PS 18/23](#) for PRA-authorized firms, and [PS 23/19](#) for FCA solo-regulated firms.

The updated standard extends the temporary exemption from bilateral margin requirements for single-stock equity options and index options by two years, to 4 January 2026. The regulators note

that many jurisdictions provide a similar exemption, so the extension will continue to maintain a level playing field with other major financial centres.

The regulators also confirmed they are not introducing a requirement for supervisory pre-approval for bilateral margin models at this time. While this is a requirement of the internationally-agreed margin requirements standard, the regulators note that the UK regime sets out other detailed and prescriptive modelling requirements, and that market practices have coalesced around an industry-wide model since the international standard was published. The regulators will continue their current approaches to supervising bilateral margin requirements among regulated firms in scope of the margin requirements under European Market Infrastructure Regulation (UK EMIR).

# Banking and capital markets

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## Capital and liquidity

### PRA updates on Strong and Simple Framework

The PRA published [Policy Statement \(PS\) 15/23](#) on 5 December 2023, covering the Strong and Simple regime's scope criteria, liquidity and disclosure requirements. The PRA has renamed Simpler-regime firms as Small Domestic Deposit Takers (SDDTs), and Simpler-regime consolidation entities as SDDT consolidation entities.

Many of the rules are aligned with the proposals contained in several previous consultation papers. The PRA has confirmed its rules in a number of key areas including:

- **Size:** the maximum size threshold for being in scope of the regime is £20bn of assets on average over a 36-month period.
- **Domestic activity:** the domestic threshold for qualifying for the regime requires a 36-month average ratio of at least 85% of total exposures being UK exposures (including exposures secured on UK land and buildings), with a minimum of 75% at any time.
- **Internal ratings based (IRB) approach:** SDDTs must not have IRB approvals, but can submit IRB models without affecting their status until approval.
- **Pillar 2 Liquidity:** The pillar's add-ons for SDDTs will not be applied (except for particularly material idiosyncratic risks).

The PRA has reaffirmed its intention to publish proposals for simplified prudential requirements in distinct phases, meaning that

key elements of the framework are not yet confirmed. SDDT definition and eligibility rules, along with disclosure requirements, become effective on 1 January 2024. Other related rules will be implemented on 1 July 2024. The PRA's draft rules to Pillar 2 and buffer requirements are expected in Q2 2024. The PRA is allowing firms the flexibility of waiting until further elements of the regime, notably the capital requirements, are finalised before deciding whether to opt in.

### PRA publishes Basel 3.1 rules

On 12 December 2023 the PRA published a [Policy Statement](#) on its approach to the implementation of the Basel 3.1 reforms. PS 17/23 covers the final rules for market risk, credit valuation adjustment risk and operational risk. The rules are broadly aligned to the PRA's earlier proposals, as set out in CP 16/22. As such, the UK's approach largely aligns with the Basel Committee on Banking Supervision's Basel standards. The PRA's latest estimate of the impact of the reforms for major UK firms is a 3.2% increase in Tier 1 capital requirements by 1 January 2030.

The PRA intends to publish a second policy statement, covering the remaining areas of the Basel 3.1 rules, in Q2 2024. This will cover standardised and advanced credit risk, credit risk mitigation, the output floor, Pillar 3 disclosures and regulatory reporting.

Our [Hot topic](#) publication provides further analysis of the final rules and their implications for firms.

## Conduct

### FCA announces measures for credit information market

The FCA proposed a package of measures for credit reference agencies (CRAs) and credit lenders, in its [credit information market study final report \(MS19/1.3\)](#) on 5 December 2023. The measures aim to improve the quality of information gathered by CRAs, addressing issues identified in the FCA's November 2022 Interim report, such as disparities in data among CRAs and consumer unawareness of credit information access and dispute procedures.

The proposed changes include mandating all FCA-regulated data contributors, such as credit and mortgage lenders, to share credit information with CRAs, and introducing a new regulatory reporting framework for designated CRAs. The FCA plans to issue a separate consultation paper on rules for mandatory data sharing by the end of 2024.

The regulator also outlines a number of industry-led remedies, including a common data reporting format across CRAs, streamlining consumer access to credit information, and streamlining the process for consumers to dispute errors in the credit information held on their credit file. The FCA has formed an Interim Working Group to establish a new credit reporting governance body, tasked with reforming industry governance arrangements. The FCA expects this working group to start developing proposals in January 2024, and to complete its work by Q4 2024.

### Consumer outcomes

#### FCA updates on cash savings work

The FCA published an [update](#) on its work to improve value in the cash savings market on 6 December 2023. Since its [review](#) of the market in July 2023, the regulator notes that it has seen progress in the speed and size of interest rate changes for savers, and improvements in cash ISA transfer

performance. The FCA has published supporting data on these changes. The FCA acknowledges it has seen progress in firms' responsiveness to the most recent base rate change for some of the lowest paying products. However, it says it continues to identify and challenge firms that appear to be taking too long to react to base rate changes.

The regulator details a number of other pieces of ongoing work. In July 2023, the FCA requested nine firms to provide their fair value assessments for their lowest paying easy access savings accounts. It says this review 'has raised important questions', and it will work closely with firms over the next few months to ensure their assessments are fit for purpose. It adds that it will continue to monitor firms' approaches to providing fair value for on-sale and off-sale savings products.

The FCA is also conducting ongoing analysis to understand the contribution that cash savings products make to firms' profitability, and how this has changed since the UK base rate started rising. This work is based on data collected from a sample of firms.

#### FCA details rules to preserve access to cash

The FCA [consulted](#) on proposed rules to maintain reasonable access to cash for personal and business customers in the UK, on 7 December 2023. It proposes the introduction of a three-step framework for assessing and remediating cash access deficiencies in a local area. This will require designated firms to: (1) establish if there is, or would be after a closure/material change, a deficiency in cash access, (2) if there is a deficiency, consider if it has a significant impact and (3) if it does, identify what additional services would be reasonable to provide.

The FCA expects firms to undertake this 'cash access assessment' in response to either:

- closure/material change to the provision of cash access services at an existing facility
- receipt of a cash access request from someone with a 'sufficient interest' e.g. a local resident or council
- an FCA request.

The FCA sets out further guidance on the factors firms should consider as part of the three-step assessment. This includes the capacity of existing services, travel time and cost to alternatives, and the extent of consumers and SMEs with characteristics which indicate they are more likely to rely on cash.

The consultation also proposes new rules to enhance the governance, transparency and accountability of cash provision, requiring designated firms to provide customers with clear information about where they can access cash services and how to raise concerns about a deficiency in cash access in their local area.

Firms in scope will be designated by HMT and announced in due course, but are expected to include the largest banks and building societies. The consultation closes on 8 February 2024 and final rules are expected by Q3 2024. For more detail, see our [At a glance](#).

#### FCA reviews implementation of Consumer Duty in retail banking

The FCA published [findings](#) of a multi-firm review of the implementation of the Consumer Duty in the retail banking sector, on 14 December 2023. The regulator reviewed 70 product journeys across 47 banks, building societies and mortgage lenders, looking at firms' approaches to assessing products and services against the higher standards of the Duty, and addressing any gaps. The FCA's findings were broadly positive, and identified a number of examples of good practice, including on consumer

understanding, and customer journeys for those in financial difficulty.

However, the regulator highlighted some areas for improvement. The FCA says not all firms provided it with the complete outputs of their assessments of product and services. It reminds firms of the need to monitor customer outcomes, and to be able to provide evidence of their monitoring and any resulting action, on request. The regulator also highlighted that while some firms considered treatment of vulnerable customers within their reviews of products and services, this was lacking in some firms' documentation. The FCA was further 'disappointed' with some firms' reviews of business current accounts, with some providing little evidence of fair value assessments. The FCA reminds firms that the Duty applies to SME customers in line with the approach in its existing rulebook.

The FCA says the findings will feed into cross-sector work it is carrying out, to explore how firms are meeting the Duty for issues relevant across multiple sectors. It plans to engage with firms on their implementation plans for closed book products, and on their annual board assessment of compliance with the Duty.

## Digital assets

### Basel Committee consults on tightening cryptoasset standards

The Basel Committee [issued](#) a consultation on targeted adjustment to its standard on banks' exposures to cryptoassets on 14 December 2023.

The proposals flesh out the criteria on the composition of the reserve assets which back stablecoins, covering issues such as the credit quality, maturity and liquidity of the reserve assets. The requirements determine whether the stablecoins will be eligible for inclusion in the Group 1b category of cryptoassets, and benefit from a preferential regulatory treatment.

Under the proposals, banks would also be required to perform due diligence to ensure that they have an adequate understanding of the stabilisation mechanisms of stablecoins to which they are exposed, and how effective they are.

The consultation closes on 28 March 2024.

## Technology

### Authorities set out plans for open banking development

The Joint Regulatory Oversight Committee, which comprises the FCA, Payment Systems Regulator (PSR), Competition and Markets Authority and HM Treasury, set out future plans for open banking in a [policy paper](#) on 18 December 2023. The paper also provides an update on the progress made to achieve the [roadmap](#) of 29 actions to expand open banking over the next two-and-a-half years.

In 2024, the Committee will focus on the following identified areas:

- improved data sharing
- development of commercial and liability frameworks
- improvements in information flows to third party providers on application programming interface calls and payment messages
- development of new banking use cases to further develop the open banking ecosystem, including non-sweeping Variable Recurring Payments (VRP).

Alongside the policy paper, the Committee published a [response](#) to the VRP working group's blueprint for rolling out non-sweeping VRP. The PSR also published a [consultation](#) on what is needed to expand VRPs, which is open until 2 February 2024.

In addition, the Committee is considering the recommendations for a future entity to support open banking's success and will decide on its structure and funding soon. In Q1 2024, the Committee will publish its decision and the immediate steps which will be taken to establish the future entity.

# Asset management

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## Investment funds

### Authorities propose UK MMF rules

The FCA and [HM Treasury \(HMT\)](#) consulted on [Updating the regime for Money Market Funds \(CP23/28\)](#) on 5 December 2023. While there are only 17 UK-domiciled Money Market Funds (MMFs), the FCA and HMT want to increase the resilience of the sector. The FCA is proposing a significant increase in the minimum liquid asset requirement for all MMFs, raising daily and weekly liquid assets levels to 15% and 50% respectively. It also proposes delinking, improved KYC requirements and new stress testing and enhanced operational resilience obligations for stable NAV MMFs. The FCA is consulting until 8 March 2024.

HMT's [near-final statutory instrument](#) replaces the on-shored EU laws, and as part of the Smarter Regulatory Framework for financial services, allows the FCA to make relevant replacement rules. Most of the policy intentions are consistent with existing rules, but unauthorised Alternative Investment Funds will not be able to become authorised as an MMF, and there are changes to the overseas funds rules for MMFs. HMT welcomes comments by 24 January 2024.

### Supervision

#### FCA consults on Overseas Funds Regime

The FCA consulted on some operational elements of the [Overseas Funds Regime \(OFR\) in CP23/26](#) on 4 December 2023.

The OFR will replace the Temporary Marketing Permissions Regime (TMPR) which allowed EU Undertakings for Collective Investment in Transferable Securities (UCITS) funds to continue to market to UK investors post-Brexit, and will provide easier access to the UK

market than utilising the national private placement regime or s.272 of FSMA. It is potentially broader than just UCITS funds, depending on any wider equivalence decisions made by HM Treasury (HMT).

At this stage, the FCA is providing some indications of the likely data points required for recognition, disclosure of FOS/FSCS coverage (or not), and fees. Until HMT concludes its work on equivalence of the EU regime, the FCA is unable to consult on any additional regulatory obligations which may be faced by overseas funds at the direction of HMT. This consultation is open for comment until 12 February 2024.

### Sustainability

#### ESMA announces changes to fund name proposals

On 14 December 2023, the European Securities and Markets Authority (ESMA) [announced changes](#) to its proposed guidelines on the use of ESG and sustainability-related terms in fund names.

ESMA consulted on proposals to attach conditions to the use of fund names in November 2022. This announcement confirms that ESMA will delay the implementation of the guidelines until after reviews to AIFMD and UCITS Directives are completed and the amended legal texts have entered into force.

In addition, ESMA confirmed changes to the conditions set out in the guidelines. These are:

- changes to the proposed thresholds for sustainable investments in funds using related terms in their names
- a new category for transition related terms
- the separation of 'E' from 'S' and 'G' terms

- additional conditions attached to the use of 'impact' and 'transition' terms.

ESMA will adopt the revised guidelines following the completion of the reviews into AIFMD and UCITS.

# Insurance

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## Capital and liquidity

### PRA confirms some Solvency II reform to take effect from year-end 2023

The PRA [published](#) a statement on 8 December 2023, confirming that certain Solvency II changes would come into force on 31 December 2023. The Solvency II changes are informed by two recent PRA consultations: [CP14/22](#) 'Review of Solvency II: Reporting phase 2'; and [CP12/23](#) 'Review of Solvency II: Adapting to the UK insurance market'.

The PRA confirms that reform of the Risk Margin (RM) calculation methodology was ratified by the [statutory instrument](#) laid before Parliament on 8 December 2023. The PRA also confirms that the requirement on firms to submit the Regular Supervisory Report will be removed with effect from 31 December 2023.

On the Transitional Measure on Technical Provisions (TMTP), the PRA explains insurers no longer need to perform the financial resource requirement (FRR) test when recalculating the TMTP, unless insurers were required to limit the TMTP due to the FRR test in their last recalculation before 31 December 2023. In this scenario, PRA supervision will consider whether to remove the FRR test on a case-by-case basis.

With regards to Periodical Payment Orders (PPOs), the PRA confirms the new RM formula introduces a risk tapering factor of 0.9 for life insurance and reinsurance obligations, subject to a floor of 0.25. Given PPOs are treated as life insurance obligations, the PRA confirms that PPOs are eligible for the 0.9 risk tapering factor.

### PRA warns GI firms on profit assumptions in Internal Models

The PRA [issued](#) a Dear CRO letter on 11 December 2023, sharing its findings with all General Insurance (GI) firms on its review into expected underwriting (UW) profit allowed for in

internal models (IMs). The PRA had earlier shared its findings only with GI firms with approved IMs.

The PRA's concerns are that GI firms are assuming increasing UW profits within their IMs, which can result in a reduced Solvency Capital Requirement, without any proper justification. Most firms did not conduct sensitivity or scenario testing to assess the impact of these optimistic assumptions. While for some firms their risk functions identified a degree of optimism in the UW profit assumed in firms' business plans, there was limited evidence to suggest that this had been considered during the IM validation process. The PRA emphasises that UW profit assumed for the IM needs to be realistic and justified, unlike UW profit assumed for business planning which may be aspirational. Additionally, the PRA identifies some broader weaknesses in firms' business planning processes, such as a lack of robust and effective challenge.

The PRA's notes that the findings in the letter will shape its work on the IM Ongoing Review. As part of the PRA's usual supervisory work, firms should be prepared to explain the steps they have taken as a result of the PRA's findings, including any board level engagement.

## Conduct

### FCA confirms IDD regime to remain the same

The FCA [issued](#) final rules to replace the Insurance Distribution Directive (IDD) delegated regulations on 15 December 2023. The FCA confirms the regulatory regime for insurance distribution will remain unchanged for now.

The FCA fully implemented the IDD in 2018 through its Handbook. However, a handful of IDD delegated regulations were directly applicable and so did not need to be transposed into the Handbook at that time. These regulations include the insurance product information document, product oversight and governance, and the insurance-based investment products regulations.

Following the UK's exit from the EU, these delegated regulations became part of retained EU law (REUL).

The FCA confirms that its new rules to replace the provisions of the REUL neither introduce new requirements nor remove existing requirements. However, the FCA also states that to deliver an appropriate regulatory regime in the future, it is considering whether more substantial changes are required.

The FCA expects the rules to come into effect on 5 April 2024, to align with the date that Parliament repeals retained EU law.

## Sustainability

### EIOPA consults on principles to tackle greenwashing

On 12 December 2023, the European Insurance and Occupational Pensions Authority (EIOPA) [published a consultation](#) on its proposed approach to tackling greenwashing in the insurance and occupational pensions sectors. The consultation sets out four principles that should be observed when providers are making sustainability claims:

- claims made by a provider should be accurate, precise, and consistent with the provider's overall profile and business model, or the profile of its product(s)
- claims should be kept up to date, and any changes should be disclosed in a timely manner and with a clear rationale
- claims should be substantiated with clear reasoning and facts
- claims and their substantiation should be accessible by the targeted stakeholders.

The consultation paper sets out examples of good and bad practices in relation to each. The consultation is open until 12 March 2024.

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